IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12/08/2004

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THE HONOURABLE Mr. JUSTICE M.CHOCKALINGAM

W.P.No.4415 of 2001

C.Prabakara Rao .... Petitioner

-Vs-

The Corporation of Chennai
rep. by its Commissioner,
Rippon Buildings, Chennai 600 003. .... Respondent

Writ petition filed under Article 226 of The Constitution of India
praying for the issuance of writ of certiorarified mandamus to call for the
records and quash the order No.Po.Thu.Na.Ka.No.E7/57262/2000 dated 2.3.2001
issued by the respondent and consequently direct the respondent to reinstate
the petitioner with continuity of service and backwages.

!For Petitioners : Ms.Sudha Ramalingam

^For Respondent : Mrs.P.Bagyalakshmi

:O R D E R

Challenging the order of the respondent/Corporation of Madras, the
petitioner, who was employed in the Corporation as a cart driver on
compassionate ground on the death of his father, who also served as a cart
driver, has brought forth this writ petition.

2. Admittedly the petitioner's father was working as a cart driver in
the respondent/Corporation. On his death on 23.02.1994, an application was
made for appointment of any one of the members of his family on compassionate
ground. He has also not controverted that the application was made by the
mother of the petitioner. On consideration of the application, the petitioner
was appointed on compassionate ground. While so, the petitioner was served
with an order dated 2.3.20 01 stating that his services were terminated in
view of the suppression of the fact that his mother was gainfully employed in
Central Government at the time of his appointment. Now under the
circumstances, the writ petition is brought forth before this Court.

3. What are all contended by the learned counsel for the petitioner
is that when an appointment was given to the petitioner by the

respondent/Corporation on compassionate ground and he was working so, even without a notice or enquiry, the services of the petitioner were terminated flouting the principles of natural justice and that order of the respondent has sought to be quashed.

4. Learned counsel appearing for the respondent, in answer to the above contention, would submit that it is true that the father of the petitioner was employed as a cart driver and on his death, an application was made by the mother of the petitioner but not by the petitioner wherein there was suppression of material fact, namely the mother of the petitioner, who is the wife of the deceased employee was employed in Central Government service. It had not been brought to the notice of the authorities, when the petitioner has got an appointment and in view of the undertaking given by the petitioner at the time of appointment by the respondent/Corporation, the services of the petitioner can be terminated without issuing notice. Hence, the termination order issued by the Corporation is sought to be sustained.

5. After careful consideration of the rival submissions made by learned counsel on either side, this Court is of the considered opinion that the order issued by the respondent terminating the services of the petitioner is to be necessarily quashed. It is an admitted position that on an application made by the mother of the petitioner on the death of her husband, who was employed as a cart driver in the Corporation, that on compassionate ground, one of the family members could be appointed in the Corporation, the Corporation has appointed the petitioner herein on compassionate ground. It is the case of the respondent that the termination was made in view of the suppression of material fact, namely, the mother of the petitioner was employed in the Central Government service. Even if it is true, the respondent/ Corporation cannot without issuing notice of the actual situation, calling for explanation and giving opportunity of being heard, make termination of service by an order dated 2.3.2001 and this order of termination suffers by flagrant violation of the principles of natural justice. It could be set right only by cancelling the order. Hence, it is a fit case where the issue of certiorari to be given by quashing the impugned order.

6. Learned counsel for the petitioner submits that pursuant to the interim order passed by this Court, status quo is continued and the petitioner is working in the Corporation.

7. Under the above circumstances, the impugned order dated 2.3.2001 passed by the respondent is quashed. The Writ petition is allowed. However, the respondent is at liberty to initiate proceedings against the petitioner by following procedural formalities and pass suitable orders in accordance with law. No costs.

Index:Yes
Internet:Yes

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To
The Commissioner,
The Corporation of Chennai
Rippon Buildings, Chennai 600 003.